

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KHALID HASAN KHAN,

Petitioner,

vs.

UNITED STATES CITIZENSHIP AND
 IMMIGRATION SERVICES,

Respondent.

Case No.: 2:11-cv-00811-GMN-GWF

ORDER

Pending before the Court is Petitioner Khan's Petition to Amend Certificate of Naturalization (ECF No. 1), in which Petitioner asks the Court to amend his Certificate of Naturalization to reflect his correct year of birth. Having been properly served and notified of this Petition, the United States has filed a Notice of Non-Opposition to the Petition (ECF No. 15). The Court hereby GRANTS the Petition. **Petitioner's Certificate of Naturalization shall be amended to reflect his accurate birth year: 1938.**

Petitioner's request is governed by Title 8, Section 334.16(b) of the Code of Federal Regulations, which allows a petition for naturalization to be amended by a federal court, though it requires the Petitioner to serve a copy of the petition "upon the district director having administrative jurisdiction over the territory in which the court is located." Petitioner has done so here. (*See* Certificate of Service, ECF No. 10.) Although 8 C.F.R. § 334.16(b) specifically gives federal courts the power to order amendments to *petitions* for naturalization, courts also use this regulation to make amendments to certificates of naturalization. *See, e.g., Kouanchao v. United States Citizenship and Immigration Services*, 358 F. Supp. 2d 837, 840 (D. Minn. 2005).

A party seeking to amend their date of birth on a Certificate of Naturalization bears the

1 burden of establishing that the date on the Certificate is incorrect and the proffered date is
2 correct. *See Kouanchao*, 358 F. Supp. 2d at 838. Petitioner has done so here.

3 Petitioner's Certificate of Naturalization currently indicates that he was born in 1941;
4 however, he has produced several certified documents that reveal that he was actually born in
5 1938. Specifically, he has produced a birth certificate from the state of Uttar Pradesh, India
6 that is signed and stamped by the Registrar of Birth & Death and indicates that Petitioner was
7 born on December 4, 1938. (*See* Ex. D, Sealed Petition, ECF No. 12). The date set forth in his
8 birth certificate is supported by the records of the college that Petitioner attended (*see* Ex. B,
9 Sealed Petition, ECF No. 12), the records of the high school he attended (*see* Ex. A, Sealed
10 Petition, ECF No. 12), and an additional notarized form from the state of Uttar Pradesh based
11 on the state's "original records" (*see* Ex. F, Sealed Petition, ECF No. 12), all of which indicate
12 that Petitioner was born on December 4, 1938.

13 The erroneous 1941 date appears to stem from Petitioner's migration from India to
14 Pakistan in 1961. (Petition ¶ 7, ECF No. 1.) In 1971, he was issued a passport by the Pakistani
15 government that contained the same month and date of birth as the information on record in
16 Uttar Pradesh and Petitioner's schools but incorrectly listed 1941 as the year of Petitioner's
17 birth. (*Id.*) In the same year that he received this flawed passport, Petitioner permanently
18 moved to the United States, and it appears that that document was the basis for the birth year
19 that was ultimately listed on Petitioner's Certificate of Naturalization in 1985. (Petition ¶ 8,
20 ECF No. 1.)

21 In light of the information presented by Petitioner, the Government's Non-Opposition,
22 and the fact that no allegations of fraud have been made, the Court finds that Petitioner has met
23 his burden and the requested relief may be granted. *See Moissiu v. United States Citizenship*
24 *and Immigration Services*, No. 2:10-cv-00218-KJD-LRL, 2011 WL 32490, at *1 (D. Nev. Jan.
25 05, 2011) (granting petition to amend Certificate of Naturalization where petitioner produced

1 evidence of her correct birth date, the Government filed a Notice of Non-Opposition, and no
2 allegations of fraud were made).

3 **CONCLUSION**

4 **IT IS HEREBY ORDERED** that Petitioner Khan's Petition to Amend Certificate of
5 Naturalization (ECF No. 1) is **GRANTED**. **Petitioner's Certificate of Naturalization shall**
6 **be amended to reflect his accurate birth year: 1938.**

7 **IT IS FURTHER ORDERED** that the Clerk of the Court shall serve a copy of this
8 order on John Kramer, the USCIS Director having administrative jurisdiction over Nevada, at
9 2035 North Central Avenue, Phoenix, AZ 85004-1548. That copy shall be included in the
10 Service file, as set forth in 8 CFR § 334.16(b).

11 DATED this 23rd day of June, 2011.

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15 Gloria M. Navarro
16 United States District Judge
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